

MINUTES

UTAH PHYSICIANS LICENSING BOARD MEETING

July 11, 2007

**Room 475 – 4th Floor –8:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 8:42 a.m.

ADJOURNED: 12:17

Bureau Manager:
Secretary:

Diana Baker
Shirlene Kimball

Conducting:

Richard Sperry, MD acting Chair

Board Members Present:

Lori Buhler, public member
James Fowler, MD
John Bennion, public member
Richard Sperry, MD
Curtis Canning, MD
Michael Giovanniello, MD
Stephen Lamb, MD

Board Members Excused:

Marc Babitz, MD
George Pingree, MD

Guests:

Karly Pippitt, MD
Lindsay Grizzle, MD

TOPICS FOR DISCUSSION

ADMINISTRATIVE BUSINESS:

June 13, 2007 Minutes:

NEW BUSINESS:

Agenda Review by Diana Baker:

Steve Davis, Chief Investigator
Investigative Report:

DECISIONS AND RECOMMENDATIONS

The minutes were approved with corrections. All Board members in favor.

Ms. Baker reviewed the Agenda with Board members.

Mr. Davis provided the Board with the investigative fiscal year end report for physicians. He indicated 420 complaints were received and 329 complaints were closed. There are currently 93 open complaints, 5 petitions have been filed and 9 are at the AG's office. He indicated the rest are in the investigation process.

Mr. Davis explained that the intelligence file is a file that is kept for future reference and includes complaints that don't constitute grounds for disciplinary action. Mr. Davis indicated that Letters of Concern are sent for conduct that can be corrected by bringing a law to the physician's attention, but no disciplinary action is taken. Mr. Davis indicated that more cases were opened in 2007 than in 2006, but there were fewer disciplinary actions taken. Dr. Sperry thanked the investigators for their work.

Dr. Canning report:

Dr. Canning indicated he has studied Dr. Paula Gibbs scholarly paper and stated he is impressed with the paper. The paper addresses boundary crossings versus boundary violations. Dr. Canning stated he considers Dr. Gibbs probation complete. A copy of the paper will be sent to all Board members.

Dr. Lamb:

Dr. Lamb stated he appreciates the balance in the articles regarding ETG that Ms. Baker mailed to Board members.

GROUP INTERVIEWS:

GROUP 1

Minute Taker: Diana Baker

Members present: Ms. Buhler, Dr. Canning and Dr. Sperry.

David Aune, MD

Interview:

Dr. Aune reports that his recovery is going very well. However, he has been let go from the InstaCare where he was practicing because of decreasing insurance panels. He is currently unemployed. He has prospects in Nevada but is uncertain if he can get a license there to practice. He has been offered a locum tenens position in Salt Lake but the company does not want other physicians acting as supervisors. Board members explained that he would require a supervisor who could interact with him and not someone who would just fill out papers. Dr. Aune stated that he would continue to look for employment elsewhere and pursue the Nevada prospect. He did submit all required paperwork. It was pointed out to him that the documents sent from his aftercare program identified that he has missed one meeting in April and two meetings in June. He stated that he had called the program coordinator to get an excused absence; however, his Order with the Division indicates that he must attend 1 meeting per week and the coordinator does not have authority to excuse him from his Order.

He did not know that the program coordinator could not excuse him. He therefore is not in compliance with the terms and conditions of the Order regarding his aftercare program. However, the record should reflect that Dr. Aune has been doing well in all other aspects of his Order.

GROUP 2
Secretary: Shirlene Kimball

Members present: Dr. Fowler, Dr. Bennion, Dr. Lamb and Dr. Giovanniello

Jason Church, MD
Interview:

Dr. Giovanniello conducted the interview. Dr. Church reported things are going very well. Dr. Church indicated he is attending 10 meetings per month. Dr. Church stated he is in the process of transferring his Ohio DEA registration to Utah. He also indicated he has requested his meetings with the Ohio Board be moved to the month after he meets with the Utah Board in order to remain in compliance with both Board Orders. Dr. Church has completed the two-year aftercare attendance requirement and his Order will be amended to discontinue attendance at aftercare. Dr. Church is in compliance with the terms and conditions of his probation.

Judy Engen, MD
Interview:

Dr. Engen canceled her interview. She is still unable to travel and will be scheduled for next month.

TOTAL BOARD BUSINESS:
Randall Ellsworth, MD
Interview:

Dr. Sperry conducted the interview. Dr. Ellsworth stated he has not found employment as a physician. Dr. Ellsworth stated he has turned down travel out side of the country and questioned whether or not the Board has made a decision regarding the conditions that would be acceptable in order for him to travel and remain in compliance with his Order. He stated he is usually gone 7-10 days at a time and would only be traveling 4 times per year. Dr. Giovanniello stated it would be beneficial to Dr. Ellsworth if he were allowed to travel out of the country. He suggested Dr. Ellsworth let the Board know ahead of time his travel plans, dates of departure, dates of return, and going in for a urine screen the day before leaving, and the date he returns. Ms. Baker indicated the Division could request a hair screen which would track drug use for a longer period of time and the hair screen could be done upon return from his trip. Dr. Sperry made a

Motion that when Dr. Ellsworth travels out of the country, he notify the Board in writing of the departure date and return date, appear for a drug screen the day before departure, and a hair screen the day of return, and can travel out of the country no more than four times per year. Dr. Canning seconded the Motion. Dr. Lamb made a friendly amendment that Dr. Ellsworth should not be gone for more than 14 days and to notify the Division/Board in writing at least two weeks in advance of leaving. Dr. Sperry accepted the friendly amendment. All Board members in favor. Dr. Canning stated for the record, he would like Dr. Ellsworth to feel support in whatever activity he can handle.

Paul Wyatt, MD
New Order and request for an unrestricted
license:

Dr. Lamb conducted the interview. Dr. Wyatt indicated he completed the training at the Moran Eye Center and met with an evaluator who determined he was competent to practice Ophthalmology. Dr. Wyatt indicated the Wyoming Board voted to lift all restrictions on his license. He stated he is currently working at Ungrich Eye Associates and is restricted to non-surgery practice only. Dr. Wyatt indicated he would like an unrestricted license in Utah. Dr. Giovanniello questioned why he had to obtain a psychological evaluation if he had a competency problem. Dr. Wyatt indicated that a lot of complaints came in at once and the Wyoming Board wanted to make sure he did not have a mental illness or problem because of the sudden increase in complaints. Ms. Baker stated Wyoming has indicated there are 7 malpractice cases pending before the review panel in Wyoming. Dr. Lamb made a Motion to table the request for an unrestricted license until the Wyoming Order has been received and reviewed. Dr. Wyatt left the meeting and then returned with a copy of the Wyoming Order dated June 8, 2007. Dr. Lamb indicated he has concerns because of the difficulties in both states where Dr. Wyatt practiced and is concerned with the 7 pending malpractice complaints. Dr. Wyatt indicated he has looked at why these actions have taken place, and has decided to practice in a group setting and will not practice solo. Dr. Lamb made a Motion to issue an unrestricted license. Dr. Giovanniello seconded the Motion. All Board members in favor. Dr. Lamb indicated Dr. Wyatt can

inform the Board regarding the outcome of the malpractice claims however, it is not required. Board members also suggested he receive feedback from his colleagues.

Steven Pack, MD
New Order:

Dr. Pack and his attorney, Robert Harrison met with the Board. Dr. Fowler conducted the interview. Dr. Pack indicated his supervising physician, Dr. Brent Lind, could not attend today, but will arrange for him to meet with the Board next month. Dr. Pack explained the circumstances that brought him before the Board. Dr. Pack indicated he had an urgent care clinic and in order to hand out the medications needed, he would write a prescription for the employee, provide the cash to fill the prescriptions, and have the employee return the medications to the clinic for distribution to the patient. He indicated he had contacted a pharmacist who had indicated this was the procedure other physicians used. Dr. Pack stated there was poor accounting for the distribution of the medications. He stated he stopped this practice once he learned it was illegal.

Dr. Pack indicated he has a system in place for the supervision with Dr. Lind. Dr. Lind will review 10% of all charts where prescriptions are written. Dr. Pack was requested to provide a summary on how his system works. Dr. Pack stated he understands his order and knows he has to complete the required courses before the controlled substance license will be reinstated.

Darrell Anderson, MD
Interview:

Dr. Canning conducted the interview. Dr. Anderson submitted triplicate copies of prescriptions written last month. He stated he is still working on obtaining supervision. Dr. Anderson stated Dr. Stevens had agreed to provide supervision, however, after the last Board meeting, Dr. Stevens received a call regarding a complaint that had been filed and he thought it was related to his supervision of Dr. Anderson. Dr. Anderson stated Dr. Stevens has not returned his phone calls and he believes Dr. Stevens has decided not to provide supervision. Dr. Anderson stated he contacted Dr. Lionel Mausberg, a previous supervisor, who has agreed to supervise. Dr. Anderson stated that Dr. Stevens has not done any active supervision and

he was under the impression the Board had not approved Dr. Stevens and still needed a copy of his vitae. Dr. Canning stated the Board has Dr. Steven's vitae and agreement and it is now up to Dr. Anderson to begin the supervision. Dr. Anderson has rewritten the practice plan to include Dr. Mausberg as the supervisor, but indicated he did not have time to print it out for the Board. If Dr. Mausberg will provide supervision, Dr. Anderson needs to provide the Board with Dr. Mausberg's vitae and a letter indicating he agrees to provide the supervision. Board members expressed concern that Dr. Anderson has been without supervision for six months. Board members made it clear that Dr. Anderson needs to meet with either Dr. Stevens or Dr. Mausberg and have one of them submit supervisor and chart review reports

Board members also questioned Dr. Anderson regarding the decrease in the number of prescriptions he is writing. Board members questioned whether or not his practice is changing. Dr. Anderson stated he has been dropped by insurance panels and has fewer patients. It also appears that he is not filling the prescriptions written for him. Dr. Anderson stated he is still taking his medications.

Dr. Canning stated there remains a pattern of behavior that is a concern. He has been out of compliance 6 of the last 7 months. Dr. Canning made a Motion to scheduled Dr. Anderson for the September Board, have the supervisor submit an acceptance letter, have the supervisor meet with the board either in person or by telephone, have had at least one supervisory meeting documented, submit his practice plan and his triplicate prescriptions prior to the meeting. Dr. Bennion seconded the Motion. All Board members in favor.

Report from Interview Groups:

Dr. Aune is out of compliance with his Order. He submitted the employer, therapist, PIR and AA reports. However, he missed aftercare meetings in April and June. He needs to attend four aftercare meetings per month.

Dr. Church is in compliance with the terms and conditions of his Order. A Motion was made to

amend the Order to terminate the aftercare requirement. The Motion was seconded. All Board members in favor.

Dr. Lamb discussion:

Dr. Lamb stated he would like to pursue the roll of the board and work with Ms. Baker and Mr. Stanley to see if the role could be expanded or changed. Dr. Lamb indicated the Board could work on more preventative measures and become more involved with investigations. He stated he would like to see the diversion program expanded beyond drug and alcohol abuse. Ms. Baker indicated that those physicians who are sent letters of concern could be scheduled with the Board for an educational interview. Ms. Baker indicated in the past the Board has written articles for publication in the UMA newsletter. Dr. Gibbs' report would be good to share if she agrees. Ms. Baker stated the Board has to be careful and not step outside the role of the Board and the mission of protecting the public.

Review request from Dr. Philip Washburn:

Dr. Washburn submitted a request for termination of probation. Board members indicated they continue to have concerns regarding Dr. Washburn's prescribing practice and his record keeping. Dr. Canning made a Motion that after careful consideration, the Board denies the request. Dr. Sperry seconded the Motion. All Board members in favor. Dr. Washburn can submit the request for termination again in six months for reconsideration.

Review the Memorandum from David Stanley regarding Proposed Global Definition of Levels of Supervision:

Mr. Stanley indicated the Administrative Rules Review Committee is reviewing the levels of licensure supervision. Ms. Baker indicated that the only definition of supervision in the Medical Practice Act is under the definition of medical assistant. It states that the medical assistant is under the direct and immediate supervision of the physician, but does not define direct and immediate supervision. Mr. Stanley requested the Board review the proposal and place this issue on the agenda next month for discussion and recommendation.

Applications approved by the Division:

Joni Hemond, MD
Luke Zabrocki, MD
Nichole Churchman, MD

Patrick Fisher, MD
Tiffany Priester, MD
Amer Malik, MD
James Hart, MD
Susie Harris, MD
Lisa Wong, MD
Matthew Leavitt, MD
Mark Fluchel, MD
Katherine Geiersbach, MD
Raminder Nirula, MD
Jeffrey Madsen, MD
Emily Thorell, MD
Robert Harris, MD
Francis Ferraro, MD
Troy Koch, MD
Rosa Marshall, MD
Samuel Dartey-Hayford, MD
Monika Singhal, MD
Aaron Tebbs, MD
Ashford McAllister, MD
Wilson King, MD
Kristen Hasson, MD
Jacob Abraham, MD
Jay Johnson, MD
Bradley Waterman, MD
Daniel Drennan, MD
Jenifer Lingeman, MD
Clifford Dunn, MD
Scott Youngquist, MD
Matthew Nokes, MD
Jing Cai, MD
Parisa Farhi, MD
Alex Phan, MD
Suman Kuppahally, MD
David Watts, MD
Elizabeth Brand, MD
Michael Schunk, MD
Philip Zongker, MD
Jill Swensen, MD
Henry Herrod, MD
Stanley Graham, MD
Trevor Satterfield, MD
Marta Kamburowski, MD
Darlene Peterson, MD
Cori Agarwal, MD
Vanessa Laquinte, MD

Francine Jacobs, MD
Nelangi Pinto, MD
Alvin Stosich, MD
Jeroen Coppens, MD
Thu Anh Nguyen, MD
Todd Miller, MD
Christian Garaycochea, MD
Robert Chalmers, MD
William Putnam, MD
Zachary Bailey, MD
Nicholas Wetjen, MD

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

August 8, 2007

Richard Sperry, Acting Chair Physicians Licensing Board

August 8, 2007

Diana Baker, Bureau Manager, Division of Occupational & Professional Licensing